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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,094	11/17/2003	Vickie J. Cusimano	COURT.STD	9491
7590 12/14/2004				
Glen F. Gallinger 7420 Milner Dr., #1000 Colorado Springs, CO 80920			EXAMINER CHIU, RALEIGH W	
			ART UNIT 3711	PAPER NUMBER

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/714,094	CUSIMANO ET AL.	
	Examiner	Art Unit	
	Raleigh Chiu	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 11-14 and 17 is/are rejected.
- 7) ☒ Claim(s) 4-6, 8-10, 15, 16 and 18-20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "56" is missing in Figure 4 but mentioned on page 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: "28" is used to designate both a split collar (page 5) and rocker latch (page 6).

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Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claims 1, 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 337,591 (Lee) in view of U.S. Patent Number 1,534,437 (Wright).

Regarding claims 1 and 11, Figure 1 of Lee shows an embedded upright floor tube C with a contained tube A. Lee only fails to show a releasable lock means. However, it would have been obvious to put a releasable lock on the Lee net support in view of Wright who teaches at page 1, lines 63-66 and Figures 1-2 that such a construction allows a user to adjust the height of the net.

Regarding claim 3, the number of telescoping tubes is not considered to be critical; it would have been obvious to provide a plurality of telescoping tubes since it has generally been recognized that the addition of multiple parts for multiple effect involves only routine skill in the art.

With further regard to claim 11, the recited steps of erecting the modified Lee device are considered to be naturally performed when using the device; further, the modified Lee device is considered to be inherently capable of being used with a gymnasium floor.

6. Claims 2, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Wright as applied above in view of U.S. Patent Number 4,415,163 (Schoenig).

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Regarding claims 2 and 12, although Lee only shows a collar, Schoenig teaches that split collars are old and well-known in the art for adjusting the height of the net. See column 2, lines 28-33.

Regarding claim 13, the number of telescoping tubes is not considered to be critical; it would have been obvious to provide a plurality of telescoping tubes since it has generally been recognized that the addition of multiple parts for multiple effect involves only routine skill in the art.

7. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Wright as applied above in view of U.S. Patent Number 5,358,257 (Pardi).

Regarding claims 7 and 11, it would have been obvious to one of ordinary skill in the art to provide a winch and pulley with the Lee device as modified above in view of Pardi who teaches that it is old and well-known in the sporting net art to tension nets with a winch and pulley system. See Figure 1 of Pardi.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee, Wright and Schoenig as applied above in view of U.S. Patent Number 5,542,679 (Caso).

Although Lee places the net support into the ground, he does not explicitly disclose a floor cover. However, it would

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have been obvious to one of ordinary skill in the art to provide one in view of Caso to prevent unwanted material from entering the hole when the device is not in use. See Caso at column 4, lines 53-58 and Figure 7.

Allowable Subject Matter

9. Claims 4-6, 8-10, 15, 16 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich, can be reached on (571) 272-4415.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on

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access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. Chiu', with a large, stylized flourish at the end.

Raleigh W. Chiu
Primary Examiner
Technology Center 3700

RWC:dei:feif
8 December 2004